

**REMARKS**

Claims 1-3 and 5-13 are pending in this application, with claims 8-13 being withdrawn. Claims 1-3 and 5-7 currently stand rejected, and claim 1 has been amended. Favorable reconsideration of this application in light of the preceding amendments and the following remarks is respectfully requested.

**Rejections under 35 U.S.C. § 103**

Claims 1-3, 5, and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Pat 5,704,311 to van den Berg (“van den Berg”) in view of Swedish Pat 200000179 to Birk (“Birk”). The Applicants respectfully traverse this rejection for the reasons detailed below.

With regard to claim 1, the Examiner alleges that van den Berg teaches each and every feature of this claim, with the exception of the “on-line cell counter for counting the number of cells” and first and second containers, for which Birk is applied. Applicants respectfully submit that Birk does not teach or suggest a “second indicator of mastitis includ[ing] analyzing at least a part of said first quantity of milk using an **on-line cell counter for counting the number of cells.**” Rather, Birk very briefly suggests only a measuring element that may be **flow sensor** or a **floating body** whose buoyancy indicates the quality of milk. *See* Birk, p. 4, ll. 2-6; p. 5, ll. 15-28; FIG. 1, element 25. A flow sensor and a floating body are not “on-line cell counters” and cannot measure cell counts of milk. Where Birk describes cell counts as an indicator of mastitis, it does not disclose any apparatuses capable of doing so, such as

an on-line cell counter. See Birk, p. 4, ll. 8-14. Thus, Birk fails to teach or suggest the on-line cell counter of claim 1, which van den Berg also lacks.

Further, claim 1 has been amended to clarify that the **second indicator** of mastitis is “**not based on a milk quality measured by the first indicator.**” For example, the first indicator may measure milk conductivity and then the second indicator may measure cell count, without measuring conductivity at all. This amendment finds written description support in at least claims 1 and 3, FIG. 3, and specification pages 7, line 27 through page 9, line 30 as filed. Applicants respectfully submit that van den Berg fails to teach or suggest a second indication of mastitis, let alone one based on an independent milk quality. Instead, van den Berg teaches only a conductivity test for determining mastitis. See van den Berg, Col. 8, ll. 25-28, 47-51. Van den Berg further teaches a milk flow cutoff threshold that is based on the results of the conductivity test. See van den Berg, Col. 8, l. 51 – Col. 9, l. 13. The flow cutoff threshold is **not a second indicator of mastitis**, and, even if van den Berg did use the flow cutoff as an indicator of mastitis, the cutoff is explicitly **based on the quality measured by the conductivity test.** See van den Berg, Col. 9, ll. 3-5. Thus, van den Berg does not teach or suggest the second indicator, let alone one measuring a distinct milk quality as recited in claim 1.

Because van den Berg, alone or in combination with Birk, does not teach or fairly suggest multiple elements of claim 1, these references cannot anticipate or render obvious claim 1. Claims 2, 3, 5, and 7 are allowable at

least for depending from an allowable base claim. Withdrawal of the rejection to claims 1-3, 5, and 7 under 35 U.S.C. § 103(a) is respectfully requested.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over van den Berg in view of Birk and in further view of US Pat Pub 2004/0168643 to Nilsson (“Nilsson”). The Applicants respectfully traverse this rejection for the reasons detailed below.

Nilsson does not cure, nor does the Examiner apply Nilsson for curing, the disclosure and suggestion deficiencies of van den Berg and Birk, discussed above. Particularly, Nilsson is silent with regard to an on-line cell counter and two independent mastitis indicators. Because van den Berg, alone or in combination with Birk and Nilsson, fails to teach or suggest each and every feature of claim 1, these references cannot anticipate or render obvious claim

1. Claim 6 is allowable at least for depending from an allowable base claim.

Withdrawal of the rejection to claim 6 under 35 U.S.C. § 103(a) is respectfully requested.

**CONCLUSION**

In view of the above amendments and remarks, the Applicants respectfully request allowance of claims 1-3 and 5-7. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is to contact John A. Castellano, Reg. No. 35,094, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By

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